

OVERVIEW OF THE COURT



GENERAL OVERVIEW

The Family Court of Australia, through its specialist judges and staff, helps Australians resolve their most complex family disputes.

Presently, the Court is funded to provide two outputs:

- Resolution (measured by mediated agreements and consent orders), and
- Determination (measured by interim orders, final orders, appeals and divorces).

The resolution output reflects the fact that, to date, the Family Court has invested significantly in resolving disputes through the work of its mediators and registrars. The *Annual Report 2005-2006*, in particular the Report on Court Performance in Part 3, details the Court's progress against those stated outputs during the reporting year.

However, the function of the Court has evolved as a result of reforms to the family law system which took effect on 1 July 2006. The establishment of Family Relationship Centres from that date and the Federal Magistrates Court's capacity to manage the less complex family law cases will enable the Family Court to better focus its resources on the determination of the most complex family law disputes in Australia.

Accordingly, it is important to recognise that as Australia's superior court in family law, the purpose of the Family Court of Australia is to:

- determine cases with complex law, facts and parties
- cover specialised areas, such as applications pursuant to the Hague Convention on International Child Abduction, special medical procedures, and international relocation, and
- provide national coverage as the appellate court in family law matters.

The Court has designed four programs of work to ensure that it fulfils its stated purpose:

- maintaining an environment that enables judicial officers to make effective decisions
- provision of client services
- corporate management of resources, and
- effective information and communication technologies.

The Court's organisational structure is aligned to these programs of work and the Court's purpose.

GOVERNANCE

The Chief Justice is responsible for managing the administrative affairs of the Court (section 38A *Family Law Act 1975*) assisted by the Chief Executive Officer (section 38B).

The Chief Executive Officer's powers are broad (section 38D), although subject to directions from the Chief Justice (section 38D(3)). The Chief Executive Officer holds the responsibilities and powers of an agency head under Commonwealth financial management and public service legislation. By delegation from the Chief Justice, Regional Coordinating Judges assist in administering judicial functions in particular areas, such as case management.

There is a balance of powers and responsibilities across management and the judiciary. The Chief Justice has maintained a collegiate style of governance and the judges meet twice yearly in plenary. In addition, judges and staff participate in a number of committees that develop policies across a range of matters.

The Chief Justice's Policy Advisory Committee (PAC), which meets quarterly, advises the Chief Justice on policy matters. The Rules Committee also meets quarterly.

The Court also has a number of other standing Committees that generally meet by telephone on a regular basis or as required, out of court hours. They are:

- Aboriginal and Torres Strait Islander Committee
- Access to Justice Committee
- Communications Committee
- Electronic Benchbook Committee
- Ethics and Research Committee
- Family Violence Committee
- Information and Communication Technology Committee
- Judgment Publication Committee
- Law Reform Committee
- Library Committee
- National Case Management Committee
- Professional Development Committee
- Property Management Committee

The functions and role of various committees are detailed in Appendix 1.

The Court Management Group, comprising the Chief Executive Officer and other senior staff, is responsible for leading and implementing the Court's strategic direction. Operational management is devolved to registries where managers work closely with judges to deliver court services to families in dispute.

PLANNING

The Family Court's Strategic Plan was last reviewed in February 2003. Recent developments across the family law system, particularly the introduction of Family Relationship Centres from 1 July 2006 and the continued expansion of the Federal Magistrates Court, have required the Court to confirm its core functions and review its strategic direction. Accordingly, during the reporting year, the Court's judges and executive have further reviewed the strategic direction in line with the Government's reform agenda.

This planning has been informed by the client satisfaction research conducted during 2005-06 and previous financial years. An important part of the work has been the development of the combined registry in conjunction with the Federal Magistrates Court. The combined registry is intended to better service clients in family law across both courts and demands the careful management of the courts' resources to achieve that objective in balance with the Family Court's strategic direction. This requires both courts to share resources in ways that optimise cost-efficiency in administering the family law courts.

RISK MANAGEMENT, INTERNAL AUDIT AND FRAUD CONTROL

The Court's Internal Audit Committee oversees the Court's risk management, internal audit and fraud control functions. This committee comprises the Chief Executive Officer, the Executive Director Corporate, a Registry Manager, and Acumen Alliance, the Court's internal auditors who provide secretariat services to the committee.

The Court's Business Risk and Fraud Control plan was reviewed during the year and was subsequently endorsed by the Internal Audit Committee.

Several audits were conducted during the year:

- Travel Policy and Expenditure Follow-up
- Financial Compliance
- Management of Complaints
- Asset Management
- IT Security Review
- Records Management
- Purchasing and Contract Management
- Bank Reconciliation Process, and
- HR Personnel File and Personnel Data Follow-up Review.

Recommendations from concluded audits are being progressively addressed.

The Internal Audit Committee has also reviewed its processes to ensure compliance with the Australian National Audit Office's (ANAO) *Better Practice Guide on Public Sector Audit Committees*. As a result, it was determined that the key requirements were being met and the structures and processes that are already in place provide a strong corporate governance framework for the Court.

The Court has prevention, detection and investigation processes in place to manage fraud control. It also has reporting mechanisms in place to ensure proper processes are applied. The Court submits fraud control data to the Attorney-General's Department annually and complies with the Commonwealth Fraud Control Guidelines.

FINANCIAL OVERVIEW

The Family Court of Australia is a prescribed agency under the *Financial Management and Accountability Act 1997*.

The Court has reported a \$1.290 million loss for the 2005-06 financial year. This loss varies from that disclosed in the Portfolio Budget Statement and is primarily due to a decrease of \$1.194 million in the carrying value of the Court's fixed assets, as valued by the Court's independent qualified valuers, Preston Rowe Paterson Pty Ltd.

The fixed asset valuation was conducted in accordance with AASB 116 and the Finance Minister's Orders which require assets to be carried at their fair value.

The decrease reflects the reduction in value of the Court's paper-based library assets and depreciated replacement cost of the Court's IT hardware assets. In 2004-05 the Court reported a \$0.004 million profit which has been adjusted to \$0.425 million in the comparative year of the 2005-06 Financial Statements for the initial adoption of the Australian Equivalent of International Reporting Standards.

OUTSIDE PARTICIPATION

The Family Court has a number of consultative mechanisms to strengthen its partnership with clients and legal practitioners, community-based organisations and government.

There are a number of mechanisms by which external agencies may participate in the Court's processes. These include:

- The **Family Law Council**, established by the Attorney-General under section 115 of the *Family Law Act 1975*, confers with Court personnel in the course of its consideration of particular aspects of family law.

- The **Australian Institute of Family Studies** (AIFS) was established under section 114B of the *Family Law Act 1975* and is a forum for exchange of information and research.
- The Chief Justice and the Deputy Chief Justice meet quarterly with the **Family Law Section** of the Law Council of Australia and there are regular liaison meetings with local law societies and bar associations in each of the Court's registries.
- The **Chief Justice's Family Law Forum** consists of representatives of the Federal Magistrates Court, the Family Law Section of the Law Council of Australia, National Legal Aid, the Attorney-General's Department, the Department of Families, Community Services and Indigenous Affairs, the Child Support Agency, the AIFS, non-government organisations and community legal centres. The Family Law Forum meets quarterly to discuss shared issues of interest arising in the operation of the family law system.

The Court has also developed networks with culturally and linguistically diverse communities through its Cultural Diversity Committee, and with mental health providers and advocates through its Mental Health Pilot Project.

Individuals and organisations may also participate in the Court's policy formulation by making representations in writing, either directly with the Court, through the Family Law Council or through community consultations conducted by the Court. The Court also meets regularly in each region with members of the legal profession and community.

PROJECTS AND COURT INITIATIVES

FAMILY VIOLENCE

In accordance with the Court's Family Violence Strategy, during 2005-06, registries continued to build and maintain strong links with local organisations that assist clients with family violence issues. For example, the Sydney Domestic Violence Reference group is considering establishing a pilot Court support scheme, and the Adelaide Registry has assisted the Women's Information Service to develop a program to train volunteers to support women experiencing family violence as they go through the court process.

At the Brisbane Registry, a family violence screening and risk assessment pilot commenced in late 2005. The aim of the pilot was to ensure that family violence issues were identified as early as possible in the court process. Where appropriate, safety plans were developed with clients to facilitate their safety at Court events and maximise their capacity to participate in Court proceedings. The pilot was completed in March 2006 and is being evaluated for consideration of national implementation.

Family violence training was provided to all non-judicial Court staff during 2005-06 and the training package has been successfully evaluated.

The Court's Family Violence and Law Reform committees began developing draft guidelines for use in cases where family violence or the risk of family violence is alleged. These will be especially valuable in the context of amendments to the Family Law Act in the area of family violence, particularly section 60K. This section imposes an obligation on courts exercising jurisdiction under the Act to give prompt consideration to allegations of violence or abuse, or the risk of violence or abuse, and, where appropriate, make orders with respect to the gathering of evidence and the protection of parties and children. The Court has developed a process to ensure that these allegations are brought to its attention as soon as possible through the filing of a *Form 4: Notice of Child Abuse or Family Violence*. Upon filing, the Form 4 and supporting affidavit will be immediately referred to a duty registrar. Where urgent interim orders are considered necessary, the application will be listed before a judicial officer on the same day. Standard timeframes governing specific court events are also being developed.

The Government recently announced that the Australian Institute of Family Studies (AIFS) has been commissioned to undertake research on allegations of family violence and child abuse in family law proceedings. The research will examine material held by family courts to assess:

- the types of allegations and denials about family violence and child abuse, and the way that such allegations and denials arise
- how allegations and refutations are dealt with in court proceedings and what type of conclusions are reached, and
- the impact of allegations and proven cases on post-separation parenting arrangements.

The Family Court will be working with the AIFS during this research project. The Court's Statistical Services Unit is also working to modify the Casetrack data collection system to facilitate the capture of outcome related measures.

MAGELLAN

Magellan is a case management system designed to ensure that matters involving allegations of serious child abuse are dealt with as effectively and efficiently as possible.

The Magellan case management system involves rigorous judicial management, including the imposition of strict time lines, early 'front loading' of resources such as the appointment of a child representative, provision of information from the relevant state welfare authority, and close liaison on case management between external information providers and a team of family consultants (formerly 'mediators').

Magellan has now been implemented in all Family Court registries, with the New South Wales Department of Children's Services agreeing during 2005-06 to participate in the program. The Family Court's National Magellan Committee is in the process of finalising terms of reference for an external evaluation of Magellan. Ongoing work is also taking place to ensure consistent management of Magellan cases in the Court's registries.



Chief Justice Diana Bryant presents Medina Idress with a graduation certificate following the 'Living in Harmony' education program at Melbourne Registry

LIVING IN HARMONY

In 2004-05 the Court received \$108,000 from the Department of Immigration and Multicultural Affairs (DIMA) under the 'Living in Harmony' Partnership Program. The funding was provided to develop family law education strategies for new and emerging communities (in particular Afghan, Somali, Eritrean, Ethiopian, Sudanese and Iraqi). Community consultations undertaken as part of the partnership were completed in July 2005 in four states – New South Wales, Victoria, South Australia and Tasmania. A number of common themes emerged, including:

- a lack of understanding of the different roles of state and Commonwealth courts, and
- a lack of understanding of the Family Court's mediation service.

To address the issues identified during the consultation process, each jurisdiction developed individual policies and programs to engage new and emerging communities.

In recognition of the completion of programs developed through the 'Living in Harmony' Partnership, the Chief Justice awarded certificates to 12 leaders from Melbourne's African communities and to 17 bilingual workers from a range of community and government agencies in Parramatta.

The project has now concluded, with an evaluation report to be provided to DIMA.

MENTAL HEALTH SUPPORT PILOT PROJECT

The Mental Health Support Pilot Project, a joint initiative between the Family Court of Australia and the Federal Magistrates Court, was launched in Adelaide by the Hon. Christopher Pyne, Parliamentary Secretary to the Minister for Health and Ageing, on 5 December 2005. The Department of Health and Ageing sponsored the project and contributed \$300,000 for an 18-month pilot from October 2004. The purpose of the project was to pilot a range of measures to improve the mental health support provided to clients of both the Family Court and the Federal Magistrates Court. There were four main objectives:

- The development of mental health literature to improve client and staff awareness of mental health and emotional wellbeing during separation.
- The development and provision of staff training to provide staff with the skills necessary for dealing with clients who present with mental health or emotional wellbeing issues.

- The development of internal protocols to provide staff with clear guidelines for dealing with clients who threaten harm to themselves or others.
- The development of a referral service to support clients with mental health issues by linking them directly to professional counselling services provided by community-based organisations.

The project launch was jointly hosted by Chief Justice Diana Bryant and the Chief Federal Magistrate John Pascoe. The contributions of Justice Mark Le Poer Trench and the members of the Mental Health Support Project Steering Committee deserve particular mention.

The pilot project, which was conducted in the Court's Adelaide and Darwin registries, concluded on 30 June 2006. An evaluation of the pilot found that staff became more confident and capable of responding to clients suffering from stress and other mental health issues. In addition, the evaluation produced sound evidence on what areas of the project worked well and what areas needed improvement prior to national implementation.

PROFESSIONAL DEVELOPMENT

As well as hearing and determining cases, the Family Court's judges and judicial registrars participate in development programs and actively contribute to the development of the law both in Australia and internationally. On appointment, judges attend a Judicial Orientation Program conducted by the National Judicial College of Australia, and a judgment writing course.

Professional development is generally achieved through attending specialist seminars organised by the Court, external conferences and seminars, presenting papers, addressing professional associations and community-based organisations, meeting international delegations in Australia and liaising with judicial colleagues around the world. Many judges and judicial registrars also serve as members of organising committees for conferences as well as working in the community with legal and cultural organisations.

The annual Judges Conference, held in November 2005, and a one-day Judges Meeting, held in May 2006, provided the opportunity for all judges and judicial registrars to familiarise themselves with and discuss the changes to legislation, practice and procedures.

A number of specialist training sessions to support the Children's Cases Program, the Court's less adversarial initiative, were also provided for judicial officers during the year.

Further details about the Chief Justice's participation and engagement in other judicial activities are provided in Appendix 2.

JUDGES AND JUDICIAL REGISTRARS

At the end of June 2006 there were 41 judges of the Court including the Chief Justice.

(NOTE: The date after the name of a judge in the following list is the date they were appointed to the Bench.)

CHIEF JUSTICE

The Honourable Justice Diana Bryant 05/07/2004

DEPUTY CHIEF JUSTICE

The Honourable Justice John Faulks 12/10/1994

JUDGE ADMINISTRATOR

(Commission as Judge Administrator in accordance with the Family Law Act)

The Honourable Justice Neil John Buckley 07/02/1983

JUDGES ASSIGNED TO APPEAL DIVISION

The Honourable Chief Justice Diana Bryant

The Honourable Deputy Chief Justice John Faulks

The Honourable Justice Mary Madeleine Finn

The Honourable Justice Joseph Victor Kay

The Honourable Justice Michael Henry Holden

(Chief Judge Family Court of Western Australia)

The Honourable Justice Ian Roy Coleman

The Honourable Justice Bernard John Warnick

The Honourable Justice Michelle May

The Honourable Justice Jennifer Margaret Boland

JUDGES

Adelaide

The Honourable Justice Kemerli Ann Murray AO 06/02/1976

The Honourable Justice Christine Elizabeth Dawe

(Regional Coordinating Judge, South Australia and Northern Territory) 03/03/1997

The Honourable Justice Rodney Keith Burr AM 02/04/1998

The Honourable Justice Steven Strickland 22/11/1999

Brisbane

The Honourable Justice Graham Rodney Bell 27/02/1976

The Honourable Justice James Patrick O'Hara Barry 12/12/1983

The Honourable Justice Bernard John Warnick 02/09/1991

The Honourable Justice Brian Edward Jordan 27/07/1994
The Honourable Justice Michelle May 07/09/1995
The Honourable Justice Elizabeth Madonna O'Reilly 10/01/2003
The Honourable Justice Timothy Francis Carmody
(Regional Coordinating Judge, Queensland) 07/07/2003

Townsville

The Honourable Justice Alexander Robert Monteith 28/11/2000

Melbourne

The Honourable Justice Joseph Victor Kay 12/06/1986
The Honourable Justice Nahum Mushin
(Regional Coordinating Judge, Victoria and Tasmania) 26/10/1990
The Honourable Justice Sally Elizabeth Brown AM 23/11/1993
The Honourable Justice Linda Marion Dessau 20/06/1995
The Honourable Justice Paul Marshall Guest 01/05/1998
The Honourable Justice Heather Barbara Carter 01/06/1998
The Honourable Justice Michael Raymond Brock Watt 14/12/1998
The Honourable Justice Peter Young 26/08/2002
The Honourable Justice Victoria Jane Bennett 30/11/2005

Hobart

The Honourable Justice Robert James Charles Benjamin 19/08/2005

Canberra

The Honourable Justice Mary Madeleine Finn 02/07/1990

Sydney

The Honourable Justice Mary Jane Murray Lawrie 21/08/1986
The Honourable Justice John Morris Cohen 01/02/1989
The Honourable Justice Colleen Ann Moore 18/04/1991
The Honourable Justice Stephen Richard O'Ryan 11/10/1994
The Honourable Justice John Joseph Steele 01/12/1997
The Honourable Justice Peter Isaac Rose 21/12/1998
The Honourable Justice Jennifer Margaret Boland 29/10/1999
The Honourable Justice Mark Frederick Le Poer Trench 10/10/2001
The Honourable Justice Garry Allan Watts 14/04/2005

Parramatta

The Honourable Justice Ian Roy Coleman 18/04/1991
The Honourable Justice Lloyd Dengate Stacy Waddy RFD 01/07/1998

The Honourable Justice Robyn Sylvia Flohm 17/05/1999
The Honourable Justice David John Collier 19/07/1999
The Honourable Justice Janine Patricia Hazelwood Stevenson 18/05/2001

Newcastle

The Honourable Justice Graham Robert Mullane
(Regional Coordinating Judge, New South Wales and Australian Capital Territory)
28/07/1986

JUDICIAL REGISTRARS

Adelaide

Mr Andrew Alderman Forbes 15/02/1989

Brisbane

Ms Dianne Margaret Smith 11/10/1994

Melbourne

Mr Jonathan Warwick Ramsden 21/04/1992

Sydney

Mr William Philip Johnston 22/01/1990
Mr Ian James Loughnan 06/11/1995

Parramatta

Mr David Peter Halligan 24/07/1991

FAMILY COURT OF WESTERN AUSTRALIA

(NOTE: Judges of the Family Court of Western Australia also hold Commissions in the Family Court of Australia.)

Chief Judge

The Honourable Justice Michael Henry Holden 10/09/1991

Judges

The Honourable Justice Nicolas Tolcon 10/09/1991
The Honourable Justice Elvina Martin 18/11/1996
The Honourable Justice Julienne Penny 09/06/1999
The Honourable Justice Stephen Ernest Thackray 01/12/2004

ADMINISTRATIVE APPEALS TRIBUNAL

(NOTE: Some judges of the Family Court hold appointments in the Administrative Appeals Tribunal as Presidential Members.)

The Honourable Justice Mary Madeleine Finn

The Honourable Justice James Patrick O'Hara Barry

The Honourable Justice Nahum Mushin

The Honourable Justice Christine Elizabeth Dawe

The Honourable Justice Robert James Charles Benjamin

APPOINTMENTS AND RETIREMENTS

Appointments

19 August 2005: The Honourable Justice Robert James Charles Benjamin

30 November 2005: The Honourable Justice Victoria Jane Bennett

Retirements

20 September 2005: The Honourable Justice Michael Alexander Hannon

23 September 2005: The Honourable Justice John Spencer Purdy

22 November 2005: The Honourable Justice Thomas Roderick Joske

10 January 2006: The Honourable Justice Alwynne Richard Owen Rowlands, AO RFD,
Judge Administrator

24 February 2006: The Honourable Justice Susan Mary Blore Morgan

FAMILY COURT STRUCTURE AND LOCATIONS

FAMILY COURT SERVICE LOCATIONS

Adelaide Registry

Broken Hill JC/RC/MC
Whyalla RC/MC
Pt Augusta MC
Pt Pirie MC
Mt Gambier JC/RC/MC
Berri MC

Brisbane Registry

Coffs Harbour JC/SRC/RC/MC

Lismore Rural/Regional Registry

JC/SRC/RC

Canberra Registry

Batemans Bay/Bega MC

Dandenong Registry

Bairnsdale JC/RC/MC
Morwell/Gippsland RC
Traralgon MC
Sale MC
Lilydale MC

Darwin Registry

Darwin JC/RC
Katherine MC/ATSI*
Tiwi Islands ATSI*
Daley River ATSI*

Alice Springs Rural/Regional Registry

Pitjantjatjara Homelands MC/MO*
Tennant Creek MC/MO/ATSI*
Elliott ATSI*

Hobart Registry

Devonport RC/MC

Launceston Rural/Regional Registry JC

Melbourne Registry

Ballarat JC/SRC/RC/MC
Mildura JC/SRC/RC/MC
Warrnambool RC/MC
Bendigo RC/MC
Geelong RC/MC

Albury Rural/Regional Registry JC/SRC/RC

Shepparton MC
Wagga Wagga MC
Wangaratta MC

Newcastle Registry

Taree RC/MC
Port Macquarie RC
Tamworth RC/MC

Parramatta Registry

Bathurst RC
Orange RC

Dubbo Rural/Regional Registry JC/RC

Sydney Registry

Wollongong Rural/Regional Registry
JC/JRC/SRC/RC

Townsville Registry

Mackay JC/RC/MC
Atherton MC
Innisfail MC
Charters Towers MC
Ingham MC
Ayr MC
Bowen MC

Hopevale ATSI*
 Kowanyama ATSI*
 Weipa ATSI*
 Bamaga ATSI*
 Thursday Island ATSI*
 Moa Island ATSI*
 Coconut Island ATSI*
 Arakun MC/ATSI*
 Laura MC/ATSI*
 York Island MC/ATSI*
 Mapoon ATSI*
 Napranum ATSI*

Cairns Rural/Regional Registry JC/RC

Rockhampton Rural/Regional Registry JC/RC

LEGEND

JC Judicial circuit

MC Mediation circuit

JRC Judicial Registrar circuit

MO Mediation/outreach

RC Registrar circuit

ATSI Aboriginal & Torres Strait Islander family consultants

SRC Senior Registrar circuit

* ATSI family consultants ('Indigenous family liaison officers' post 1 July 2006) visit remote and isolated communities as the need arises. Other locations visited on this basis included Boraloo, Kalkaringi, Timber Creek, Yulara, Pormpuraaw, Lockhart River, Umagico and Scisia.

LOCATION OF MAJOR SERVICES



(NOTE: The Family Court of Western Australia is a state court separate to the Family Court of Australia, which does not have original jurisdiction in Western Australia.)

ORGANISATIONAL STRUCTURE – 30 JUNE 2006

